IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No. 747 of 1998

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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TINUBHAI BALUBHAI JADEJA & 8 - Applicant(s)
Versus
STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :

MR SAURIN A SHAH for Applicant(s) : 1 - 9.
PUBLIC PROSECUTOR for Respondent(s) : 1,
NOTICE SERVED for Respondent(s) : 2,
MS PJ DAVAWALA for Respondent(s) : 2,
(MR PB MAJMUDAR) for Respondent(s) : 2,
MR RJ OZA for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 25/10/2007

ORAL JUDGMENT

1. Heard learned advocate Shri Ekant Ahuja for

learned advocate Shri Saurin Shah for the petitioners, learned Additional Central Government Standing Counsel Shri Oza for Union of India and learned APP Shri Dipen Desai for the State.

2. In the present petition, the petitioners have challenged the order dated 4.8.97 passed by the learned Chief Judicial Magistrate, Kuchchh as upheld by an order dated 30.5.1998 passed by the learned Sessions Judge, Kuchchh.

3. The petitioners are accused in a criminal case arising out of breach of the Customs Act. The petitioners had moved an application Exh.83 for production of certain documents. Learned Magistrate however, found that the application cannot be granted. Revision Application of the petitioner was also rejected by the Sessions Court. The petitioners are therefore, before this Court in the present petition.

4. Learned advocate Shri Oza has pointed out a decision of this Court in case of **Bhikubhai Anakbhai Bayal v. State of Gujarat** reported in 2007(2) GLR 1380, wherein it is observed that before the stage of framing of the charge, the accused cannot seek production of the documents.

5. It is not in dispute that so far charge has not been framed in the pending criminal case against

the petitioners. On this short ground alone, therefore, I am not inclined to entertain the petition. However, it is clarified that if at a later stage after the charge is framed, the petitioners file appropriate application for production of documents, same shall be decided in accordance with law unmindful of the orders impugned in this petition.

6. Subject to above observations, the petition stands disposed of. Rule is discharged. Interim relief if any, stands vacated.

(Akil Kureshi,J.)

(raghu)